

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

WSOU INVESTMENTS, LLC d/b/a
BRAZOS LICENSING AND
DEVELOPMENT,

Plaintiff,

V.

ZTE CORPORATION, ZTE (USA)
INC., AND ZTE (TX), INC.

Defendants.

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CIVIL ACTION NO. 6:20-cv-497-ADA

JURY TRIAL DEMANDED

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff WSOU Investments, LLC d/b/a Brazos Licensing and Development (“Brazos” or “Plaintiff”), by and through its attorneys, files this First Amended Complaint for Patent Infringement (“Complaint”) against Defendants ZTE Corporation, ZTE (USA), Inc. and ZTE (TX), Inc. (collectively “ZTE” or “Defendants”) and alleges:

NATURE OF THE ACTION

1. This is a civil action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. §§ 1, et seq., including §§ 271, 281, 284, and 285.

THE PARTIES

2. Brazos is a limited liability corporation organized and existing under the laws of Delaware, with its principal place of business at 605 Austin Ave, Ste 6, Waco, TX 76701.

3. On information and belief, Defendant Zhongxing Telecommunications Equipment (abbreviated as “ZTE”) Corporation (“ZTE Corp.”) is a Chinese corporation that does business in Texas, directly or through intermediaries, with a principal place of business at ZTE Plaza, Keji Road South, Hi-Tech Industrial Park, Nanshan District, Shenzhen China.

4. On information and belief, Defendant ZTE (USA) Inc. is a New Jersey corporation that does business in Texas, directly or through intermediaries, with a principal place of business in business in Richardson, Texas.

5. On information and belief, Defendant ZTE (TX) Inc. is a Texas corporation that does business in Texas, directly or through intermediaries, with a principal place of business in business in Austin, Texas.

6. All of the Defendants operate under and identify with the trade name “ZTE.” Each of the Defendants may be referred to individually as a “ZTE Defendant” and, collectively, Defendants may be referred to below as “ZTE” or as the “ZTE Defendants.”

JURISDICTION AND VENUE

7. This is an action for patent infringement which arises under the Patent Laws of the United States, in particular, 35 U.S.C. §§271, 281, 284, and 285.

8. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338(a).

9. This Court has specific and general personal jurisdiction over each ZTE Defendant pursuant to due process and/or the Texas Long Arm Statute, because each ZTE Defendant has committed acts giving rise to this action within Texas and within this judicial district. The Court’s exercise of jurisdiction over each ZTE Defendant would not offend traditional notions of fair play and substantial justice because ZTE has established minimum contacts with the forum. For example, on information and belief, ZTE Defendants have committed acts of infringement in this judicial district, by among other things, selling and offering for sale products that infringe the asserted patent, directly or through intermediaries, as alleged herein.

10. Jurisdiction is also proper because ZTE Defendants place goods and/or services, including Accused Products, into the stream of commerce knowing they will end up in Texas. Indeed, ZTE Defendants take actions purposefully directed toward Texas to place goods and/or services into the stream of commerce here.

11. On information and belief, ZTE Corp. sells and/or licenses Accused Products directly to a company headquartered in Richardson, Texas—ZTE (USA) Inc.—and ships them to that company’s headquarters in Richardson, Texas.

12. On Information and belief, ZTE Corp. targets other Texas customers through ZTE (USA) Inc.’s website and ships Accused Products to customers in Texas.

13. ZTE Corp. specifically targets Accused Products at individuals and companies in Texas at least by selling and/or licensing Accused Products directly to ZTE (USA) Inc., a consumer and distributor of Accused Products manufactured by ZTE Corp., and by shipping Accused Products to ZTE (USA) Inc. for distribution in Texas.

14. On information and belief, ZTE Corp. assists ZTE (USA) Inc. with troubleshooting or other technical support of ZTE Corp. equipment sold in the United States, including Texas.

15. Both ZTE Corp. and ZTE (USA) Inc. have issued releases from Richardson, Texas marketing ZTE products, including Accused Products. These releases are hosted on ZTE Corp.’s website and include a “ZTE Corporation” copyright.

16. On November 20, 2019, ZTE (USA) Inc. issued a release from “RICHARDSON, Texas” advertising Black Friday Deals on several products, including Blade 10 and Axon 10 Pro. The release explains that “ZTE USA” is “headquartered in Richardson, Texas,” provides information to directly contact ZTE (USA) Inc. and indicates that “shoppers can enjoy free

shipping and easy 30 day returns for ZTE products at www.zteusa.com. The release is hosted on ZTE Corp.'s website and includes a "ZTE Corporation" copyright.

17. On October 15, 2019, ZTE Corp. issued a release from "RICHARDSON, Texas" announcing that Blade Vantage 2 would be available in "Verizon stores across the U.S." and would "operate on Verizon's national network."

18. On information and belief, most imports from ZTE Corp. to the United States are shipments to ZTE (USA) Inc.

19. On information and belief, most imports received by ZTE (USA) Inc. are imports from ZTE Corp.

20. On information and belief, ZTE Corp. regularly ships goods to ZTE (USA) Inc.'s headquarters at 2425 N Central Expressway in Richardson, Texas.

21. On information and belief, ZTE Corp. regularly ships goods to other addresses in Texas.

22. Venue in the Western District of Texas is proper pursuant to 28 U.S.C. §§1391 and/or 1400(b). The ZTE Defendants have committed acts of infringement and have places of businesses in this District and/or are foreign entities for purpose of §1391. As non-limiting examples, ZTE (TX) has maintained a place of business at 7000 N MO-PAC EXPRESSWAY 200 AUSTIN, TX 7873; and, ZTE (USA) has maintained a place of business at 6500 River Place Blvd., Austin, TX 78730. ZTE Corporation also describes a "research-and-development center in Austin, Texas."¹

¹ https://res-www.zte.com.cn/mediare/magazine/publication/tech_en/pdf/201009.pdf

COUNT ONE - INFRINGEMENT OF
U.S. PATENT NO. 7,203,505

23. Brazos re-alleges and incorporates by reference the preceding paragraphs of this Complaint.

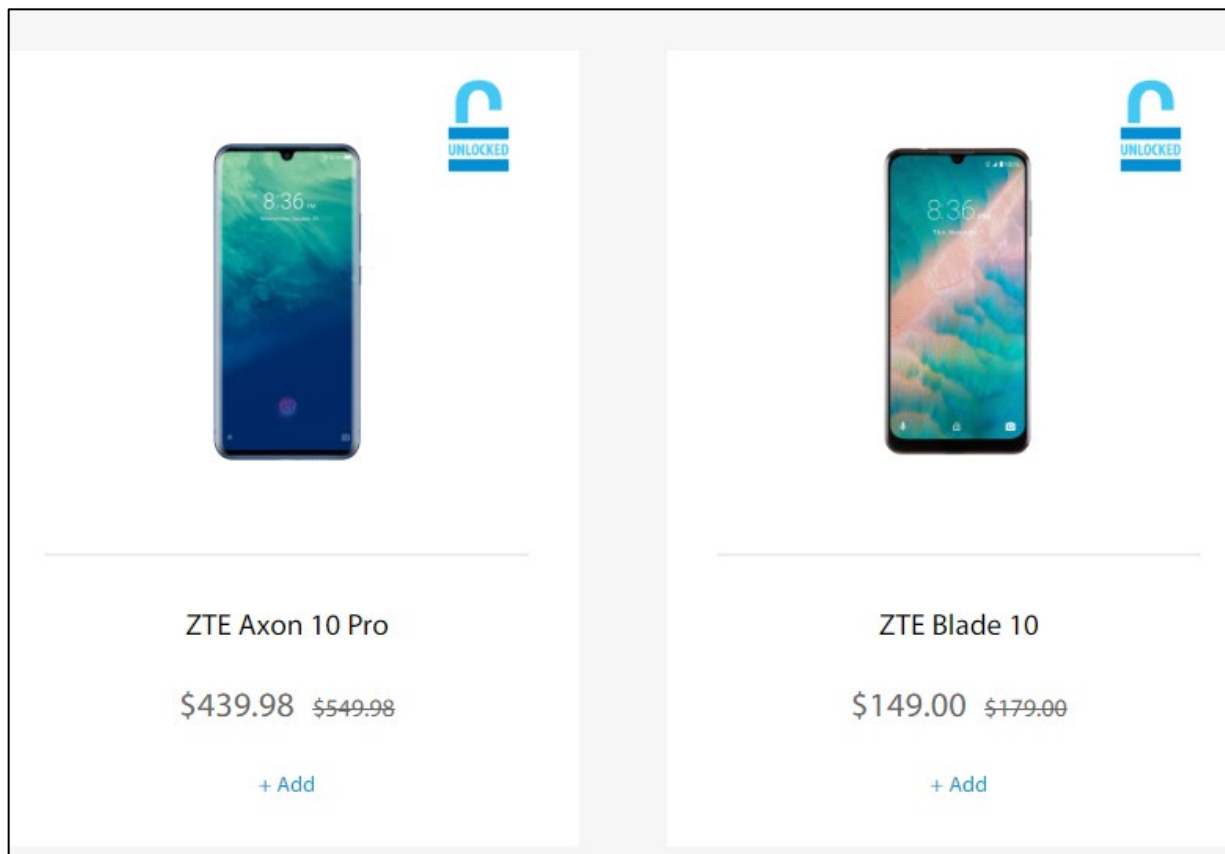
24. On April 10, 2007, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 7,203,505 (“the ’505 Patent”), entitled “MESSAGE TRANSFER FROM A SOURCE DEVICE VIA A MOBILE TERMINAL DEVICE TO A THIRD DEVICE.” A true and correct copy of the ’505 Patent is attached as Exhibit A to this Complaint.

25. Brazos is the owner of all rights, title, and interest in and to the ’505 Patent, including the right to assert all causes of action arising under the ’505 Patent and the right to any remedies for the infringement of the ’505 Patent.

26. ZTE makes, uses, sells, offers for sale, imports, and/or distributes, in the United States, communication devices, including hotspots and phones (collectively, the “Accused Products”).

27. The Accused Products include hotspots, including the ZTE Z915 and ZTE SyncUP DRIVE and mobile devices sold in the such as ZTE Axon 10 Pro, ZTE Blade 10.

28. ZTE sells mobile device in the U.S. such as ZTE Axon 10 Pro, ZTE Blade 10



<https://www.zteusa.com/products/all-phones>

29. T-Mobile sells its Sonic 2.0 mobile hotspot devices manufactured by ZTE, i.e., ZTE Z915.





Buy from undefined

<https://www.zteusa.com/tmobile-hotspot-z915.html>

Software update: Download

Download and install software update

You can download and install the software update:

From the phone

To check for updates and download the update from the ZTE servers, follow these steps:

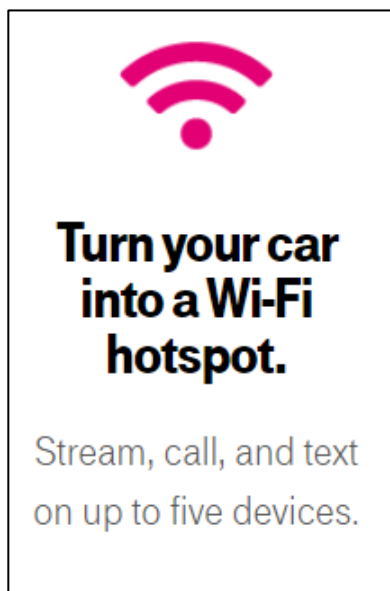
Source: <https://www.t-mobile.com/support/devices/mobile-internet/t-mobile-sonic-20-mobile-hotspot-lte/software-versions-andamp-updates-t-mobile-sonic-20-mobile-hotspot-lte>

30. ZTE also manufactures the SyncUP DRIVE.



<https://www.zteusa.com/products/m2m/syncup-drive>

31. By using SyncUP DRIVE, a user can convert a car into a hotspot. Using this feature, users can stream, call, and text on up to five devices (i.e. transmit data to be synchronized).

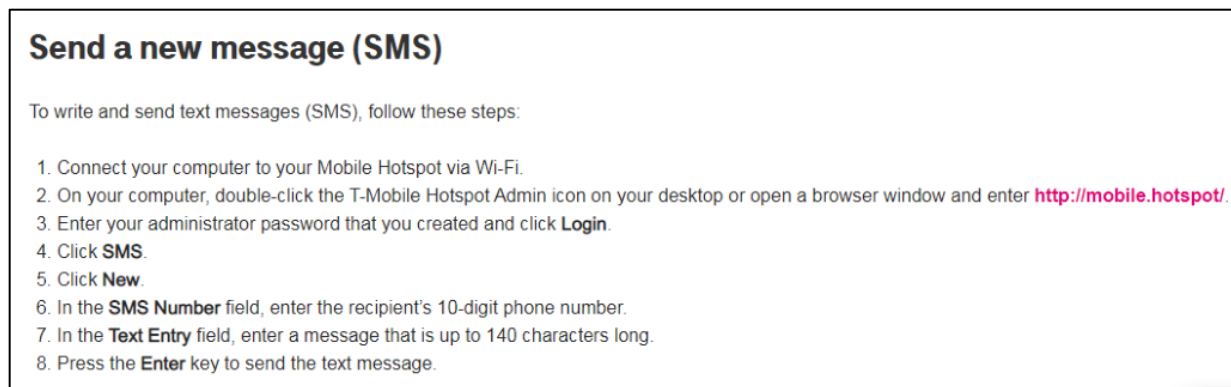
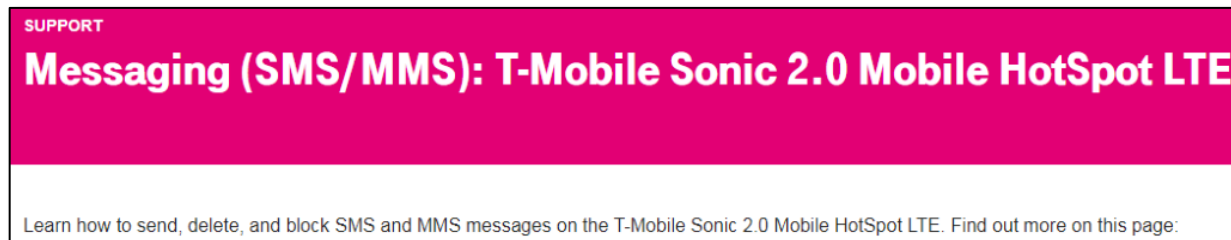


<https://www.t-mobile.com/offers/syncup>

32. ZTE mobile devices and mobile hotspots provide a feature to synchronize data between two ZTE devices.

33. Two devices (i.e., the first terminal device and the second remotely connected terminal device) can send data to one another to synchronize the data on both devices.

34. ZTE mobile devices and/or a computer can send an SMS/MMS message using ZTE Mobile hotspot (i.e., an intermediate device).



Source: https://www.t-mobile.com/support/devices/mobile-internet/t-mobile-sonic-20-mobile-hotspot-lte/messaging-smsmms-t-mobile-sonic-20-mobile-hotspot-lte#send_messages

35. ZTE mobile devices and/or a computer connected with the ZTE mobile hotspot can send an SMS/MMS message (i.e., the data to be synchronized) using ZTE Mobile hotspot.

SUPPORT

Messaging (SMS/MMS): T-Mobile Sonic 2.0 Mobile HotSpot LTE

Learn how to send, delete, and block SMS and MMS messages on the T-Mobile Sonic 2.0 Mobile HotSpot LTE. Find out more on this page:

Send a new message (SMS)

To write and send text messages (SMS), follow these steps:

1. Connect your computer to your Mobile Hotspot via Wi-Fi.
2. On your computer, double-click the T-Mobile Hotspot Admin icon on your desktop or open a browser window and enter <http://mobile.hotspot/>.
3. Enter your administrator password that you created and click **Login**.
4. Click **SMS**.
5. Click **New**.
6. In the **SMS Number** field, enter the recipient's 10-digit phone number.
7. In the **Text Entry** field, enter a message that is up to 140 characters long.
8. Press the **Enter** key to send the text message.

https://www.t-mobile.com/support/devices/mobile-internet/t-mobile-sonic-20-mobile-hotspot-lte/messaging-smsmms-t-mobile-sonic-20-mobile-hotspot-lte#send_messages

36. ZTE mobile hotspot acts as an intermediate device and ZTE mobile devices act as the first terminal and the second terminal devices.

37. ZTE mobile devices and/or a computer connected with the ZTE mobile hotspot can send an SMS/MMS message (i.e., the data to be synchronized) using ZTE Mobile hotspot.

38. Data or SMS can be transmitted through a computer or a ZTE mobile device (i.e. the first terminal device) using Hotspot Admin Application or opening <http://mobile.hotspot/> on a browser. The SMS is then sent through the ZTE hotspot device.

SUPPORT

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7. In the **Text Entry** field, enter a message that is up to 140 characters long.
8. Press the **Enter** key to send the text message.

https://www.t-mobile.com/support/devices/mobile-internet/t-mobile-sonic-20-mobile-hotspot-lte/messaging-smsmms-t-mobile-sonic-20-mobile-hotspot-lte#send_messages

39. The mobile device or a computer may connect with the mobile hotspot device using a short-range connection such as Wi-Fi. ZTE mobile hotspot is enabled with wi-fi technology to provide hotspots to other devices and hence connect with a computer or a mobile device.

40. ZTE mobile devices and/or a computer connected with the ZTE mobile hotspot can send an SMS/MMS message (i.e., the data to be synchronized) using ZTE Mobile hotspot.

41. The data to be transmitted (here, an SMS) can be transmitted through a computer or a ZTE mobile device (i.e. the first terminal device) using Hotspot Admin Application or opening <http://mobile.hotspot/> on a browser. The data (i.e., an SMS) is then sent through the ZTE hotspot device (i.e., the intermediate terminal device).

SUPPORT

Messaging (SMS/MMS): T-Mobile Sonic 2.0 Mobile HotSpot LTE

Learn how to send, delete, and block SMS and MMS messages on the T-Mobile Sonic 2.0 Mobile HotSpot LTE. Find out more on this page:

Send a new message (SMS)

To write and send text messages (SMS), follow these steps:

1. Connect your computer to your Mobile Hotspot via Wi-Fi.
2. On your computer, double-click the T-Mobile Hotspot Admin icon on your desktop or open a browser window and enter <http://mobile.hotspot/>.
3. Enter your administrator password that you created and click **Login**.
4. Click **SMS**.
5. Click **New**.
6. In the **SMS Number** field, enter the recipient's 10-digit phone number.
7. In the **Text Entry** field, enter a message that is up to 140 characters long.
8. Press the **Enter** key to send the text message.

https://www.t-mobile.com/support/devices/mobile-internet/t-mobile-sonic-20-mobile-hotspot-lte/messaging-smsmms-t-mobile-sonic-20-mobile-hotspot-lte#send_messages

42. The SMS is sent from the mobile hotspot device (i.e., the intermediate device) to the recipient specified in the SMS number field of the SMS (i.e., the second terminal device).

1. Connect your computer to your Mobile Hotspot via Wi-Fi.
2. On your computer, double-click the T-Mobile Hotspot Admin icon on your desktop or open a browser window and enter <http://mobile.hotspot/>.
3. Enter your administrator password that you created and click **Login**.
4. Click **SMS**.
5. Click **New**.
6. In the **SMS Number** field, enter the recipient's 10-digit phone number.
7. In the **Text Entry** field, enter a message that is up to 140 characters long.
8. Press the **Enter** key to send the text message.

https://www.t-mobile.com/support/devices/mobile-internet/t-mobile-sonic-20-mobile-hotspot-lte/messaging-smsmms-t-mobile-sonic-20-mobile-hotspot-lte#send_messages

43. In view of preceding paragraphs, each and every element of at least claim 1 of the '505 Patent is found in the Accused Products.

44. ZTE has and continues to directly infringe at least one claim of the '505 Patent, literally or under the doctrine of equivalents, by making, using, selling, offering for sale, importing, and/or distributing the Accused Products in the United States, including within this judicial district, without the authority of Brazos.

45. ZTE has received notice and actual or constructive knowledge of the '505 Patent since at least the date of service of this Complaint.

46. Since at least the date of service of this Complaint, through its actions, ZTE has actively induced product makers, distributors, retailers, and/or end users of the Accused Products to infringe the '505 Patent throughout the United States, including within this judicial district, by, among other things, advertising and promoting the use of the Accused Products in various websites, including providing and disseminating product descriptions, operating manuals, and other instructions on how to implement and configure the Accused Products. Examples of such advertising, promoting, and/or instructing include the documents at:

- <https://www.zteusa.com/products/all-phones>
- <https://www.amazon.com/T-Mobile-Sonic-Mobile-Hotspot-Black/dp/B006C29NZI>
- <https://www.t-mobile.com/support/devices/mobile-internet/t-mobile-sonic-20-mobile-hotspot-lte/software-versions-andamp-updates-t-mobile-sonic-20-mobile-hotspot-lte>
- https://www.t-mobile.com/support/devices/mobile-internet/t-mobile-sonic-20-mobile-hotspot-lte/messaging-smsmms-t-mobile-sonic-20-mobile-hotspot-lte#send_messages
- <https://www.zteusa.com/products/m2m/syncup-drive>
- <https://www.t-mobile.com/offers/syncup>

47. Since at least the date of service of this Complaint, through its actions, ZTE has contributed to the infringement of the '505 Patent by having others sell, offer for sale, or use the Accused Products throughout the United States, including within this judicial district, with knowledge that the Accused Products infringe the '505 Patent. The Accused Products are especially made or adapted for infringing the '505 Patent and have no substantial non-infringing use. For example, in view of the preceding paragraphs, the Accused Products contain functionality which is material to at least one claim of the '505 Patent.

JURY DEMAND

Brazos hereby demands a jury on all issues so triable.

REQUEST FOR RELIEF

WHEREFORE, Brazos respectfully requests that the Court:

(A) Enter judgment that ZTE infringes one or more claims of the '505 Patent literally and/or under the doctrine of equivalents;

(B) Enter judgment that ZTE has induced infringement and continues to induce infringement of one or more claims of the '505 Patent;

(C) Enter judgment that ZTE has contributed to and continues to contribute to the infringement of one or more claims of the '505 Patent;

(D) Award Brazos damages, to be paid by ZTE in an amount adequate to compensate Brazos for such damages, together with pre-judgment and post-judgment interest for the infringement by ZTE of the '505 Patent through the date such judgment is entered in accordance with 35 U.S.C. §284, and increase such award by up to three times the amount found or assessed in accordance with 35 U.S.C. §284;

(E) Declare this case exceptional pursuant to 35 U.S.C. §285; and

(F) Award Brazos its costs, disbursements, attorneys' fees, and such further and additional relief as is deemed appropriate by this Court.

Dated: November 6, 2020

Respectfully submitted,

/s/ James L. Etheridge

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